

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
DOCKET NO. 3:11-cv-00676-W**

DARAMIC, LLC, and MP ASSETS)	
CORPORATION,)	
)	
Plaintiffs,)	
)	
vs.)	ORDER
)	
ENTEK INTERNATIONAL, LLC,)	
)	
Defendant.)	
)	

THIS MATTER is before the Court *sua sponte* following the filing of Defendant's Notice of Withdrawal of its Motion to Dismiss (Doc. No. 18). Defendant's withdrawal effectively leaves Defendant without a response to the complaint filed December 30, 2011. Moreover, in the Notice, Defendant references that Plaintiffs intend to file an amended complaint by March 23, 2012. Under Rule 15(a), Plaintiffs may—without leave of Court—file an amended complaint within twenty-one (21) days after being served with a Rule 12(b) motion, such as the one filed on February 21, 2012, by Defendant and subsequently withdrawn. Without commenting on the effect of Defendant's withdrawal of that motion on Plaintiffs' rights under Rule 15(a), the Court concludes that at best and without receiving leave of Court, Plaintiffs have until March 13, 2012, to file an amended complaint.

IT IS THEREFORE ORDERED that Plaintiffs shall file an amended complaint no later than March 13, 2012. In light of this Order and even though no request has been submitted, the Court will toll the time for Defendant to respond to the original complaint until a response is due after service of the Amended Complaint pursuant to Rule 15(a)(3) of the Federal Rules of Civil Procedure. No extensions of time to respond to the Amended Complaint will be granted.

IT IS SO ORDERED.

Signed: March 8, 2012



Frank D. Whitney
United States District Judge
